



## Proposed Regulation Agency Background Document

<b>Agency name</b>	Department of Motor Vehicles
<b>Virginia Administrative Code (VAC) citation</b>	24VAC20-120
<b>Regulation title</b>	Commercial Driver Training School Regulations
<b>Action title</b>	Repeal current regulations and promulgate new regulations to reflect recent statutory changes to the program
<b>Document preparation date</b>	August 12, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

The Department of Motor Vehicles (DMV) is proposing to repeal its existing driver training school regulations and promulgating new regulations (see the submission for proposed regulation number 24 VAC 20-121, entitled "Virginia Driver Training School Regulations" for more details) in order to address the needs of novice drivers and the driving public in general in an ever-changing, increasingly dangerous driver environment. This specific regulatory action proposes to repeal the existing driver training school regulations.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

The statutory authority for repealing the existing driver training school regulations and promulgating new regulations is Va. Code §§ 46.2-203 and 46.2-1703. The scope of the regulatory authority is general in § 46.2-203 and specific in § 46.2-1703. Va. Code § 46.2-203 allows for the Department of Motor Vehicles to “adopt reasonable administrative regulations necessary to carry out the laws” it administers and may designate other agencies of the Commonwealth to enforce them. Va. Code § 46.2-1703 allows the Commissioner to “promulgate regulations necessary to enforce [and carry out] the provisions of [the commercial driver training school statutes and] to provide adequate training for [commercial driver training school] students.... These regulations shall include but need not be limited to curriculum requirements, contractual arrangements with students, obligations to students, facilities and equipment, qualifications of instructors, and financial stability of schools.” In both cases, the rulemaking authority is discretionary. The recent statutory changes expanded this authority to include protections for students and public safety in general as well as specific requirements for instructors, school ownership and surety bonds. See Chapter 587 of the 2004 Virginia Acts of Assembly (Senate Bill 288) for all the recent statutory changes. The Office of the Attorney General has certified that the agency has the statutory authority to repeal the existing regulations and promulgate the proposed regulations and that the proposed regulations comport with applicable state law.

### Purpose

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.*

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The repeal of these regulations parallels the promulgation of regulation number 24VAC20-121, entitled “Virginia Driver Training Regulations” (for more details on the new regulations, see the proposed submission). Those new regulations will replace the ones being repealed.

### Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the “Detail of changes” section.)*

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This specific regulatory action proposes to repeal the existing driver training school regulations.

### Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

The repeal of these regulations parallels the promulgation of regulation number 24VAC20-121, entitled “Virginia Driver Training Regulations” (for more details, see the proposed submission for those regulations). Those new regulations will replace the ones being repealed. The primary advantages to the public of repealing the existing regulations and promulgating the new regulations are as follows:

- The creation of tougher, more consistent regulatory standards for school owners and instructors will result in a better quality of instruction and a better, safer training environment for students. It will also provide better oversight of, and remedies for, inappropriate business practices.
- Better driver training and business practices translate into better-trained drivers on the highways of the Commonwealth, resulting in newly licensed drivers who are consistently safer.
- Safer drivers help make the roads of the Commonwealth safer for themselves, the rest of the public using them and the public at large.

Perhaps the only disadvantage of the proposed new regulations would be a possible increase in the cost of doing business, which would then probably be passed on to the students. Should such an impact occur, it is expected to be minimal. There are no disadvantages to the public at large and the Commonwealth.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<p><b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b></p>	<p>The projected costs to the state for repealing the existing regulations and promulgating the new regulations are not anticipated to be significant.</p>
<p><b>Projected cost of the regulation on localities</b></p>	<p>There are no anticipated costs to localities for repealing the existing regulations and promulgating the new regulations.</p>
<p><b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b></p>	<p>Those most directly affected by repealing the existing regulations and promulgating the new regulations include driver training school owners, managers and instructors, students and potential students at the schools, and parents and guardians of those students under 19 years of age. All drivers in the Commonwealth will be indirectly affected by these regulations and its positive impacts on improving the quality and consistency of driver training in Virginia.</p>

<p><b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>The following is DMV’s best estimate of the number of entities, including small businesses, affected by the regulations: 156 schools; 448 licensed instructors; 43,915 students; tens of thousands of drivers who travel the roads daily.</p>
<p><b>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</b></p>	<p>Costs to those affected individuals, businesses or other entities that currently comply with the existing regulations are expected to be minimal.</p>

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

DMV has statutory responsibility for oversight of driver training schools. This oversight is accomplished primarily through three mechanisms: regulations governing the operation of driver training schools, a school and instructor licensing process to verify compliance with applicable standards at the time of licensing, and systematic audits of the schools for compliance with statutory provisions and the promulgated regulations. The guiding mechanism for this oversight process is the regulations governing the operation of driver training schools.

DMV believes repealing the existing regulations and promulgating the new regulations is currently the only approach to take in order to maintain the most effective safeguards for the citizens of the Commonwealth and provide for the least intrusive and least burdensome means of achieving this purpose. Making specific, detailed changes in statute are undesirable and unnecessary since DMV’s regulatory authority in this area has already been established. Guidelines would not have the same effect as regulations, and would require legislative changes.

The Joint Legislative Audit and Review Commission (JLARC) issued a report in 1998 pertaining to the oversight of driver training schools. This report included a number of recommendations that support DMV’s proposed regulations.

Perhaps the greatest benefit of repealing the existing regulations and promulgating the new regulations is the public review associated with both processes. DMV developed the proposed regulations with advisory panels composed of owners and operators of both Class A and Class B licensed driver training schools. Additionally, owners of driver training schools, their instructors, their students and other interested parties will have ample time and opportunity to review and comment on the proposed regulations. DMV plans to hold public hearings as well. Should other alternatives become effectively available in the future, DMV will consider them in light of the

proposed regulations to determine the most effective, least intrusive and least burdensome means of achieving its purpose.

### Public comment

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

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DMV received and responded to two written comments during the NOIRA comment period. Both persons operate driver training schools.

One of the persons commenting was concerned he and other driver training school operators like him would not have the ability to discuss the regulations in an open forum. This person wants “workable, reasonable and prudent” regulation of the driver training industry and the “highest level of communication” to go with it. He believed the “only real goal should be working together” to make the roads of the Commonwealth safer.

DMV’s response was to explain the reasons for proposing the regulations and further explain the regulatory process to him. DMV assured him that it would have public hearings, in addition to the written comment periods, to allow for the desired level of discussion of the proposed regulations. DMV also agreed with the need for “workable, reasonable and prudent” regulation of the driver training industry. DMV also explained the need for the highest quality of training and remedies for inappropriate business practices as well. DMV offered to meet with him personally during the summer, at his convenience, to discuss his concerns. There have been no further communications with this individual on this topic.

The other person commenting wanted tougher regulations and provided a list of concerns he wanted addressed by the proposed regulations. DMV contacted this person by telephone, but was not able to speak to the person directly. DMV did leave a message encouraging him to participate in the public hearing process. There have been no further communications with this individual on this topic.

### Family impact

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

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This proposed regulatory activity is expected to enhance the institution of the family and generally improve family stability. In general, parents will be able to have a better comfort level about sending their children to safer, more secure and peer-oriented driver training schools. Students should feel better about these enhancements as well. The new proposed regulations will strengthen the authority and rights of parents by improving their means and opportunities to educate their children about safe driving techniques at driver training schools. This safe driver education will, in part, help encourage

economic self-sufficiency and allow for participants in these driver training school programs to assume greater responsibility for themselves, their families and their communities.

Overall, impacts on marital commitment are expected to be minimal. However, under certain circumstances, a strengthening of those commitments could result from the positive impacts of these programs on participants and the parents of minor participants. Maintaining a well trained, safe driving population should decrease automobile accidents, which, in turn, should decrease the overall costs to families and society as a whole that are associated with automobile accidents and injuries. Lower overall costs associated with automobile accidents and injuries should at least be expected to minimally increase disposable family incomes throughout the Commonwealth.

### Detail of changes

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

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This specific regulatory action proposes to repeal the existing driver training school regulations.